

SECOND REGULAR SESSION

SENATE BILL NO. 676

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILSON.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3114S.01I

AN ACT

To repeal sections 105.458, 160.405, and 160.415, RSMo, and to enact in lieu thereof three new sections relating to charter schools.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 105.458, 160.405, and 160.415, RSMo, are repealed

2 and three new sections enacted in lieu thereof, to be known as sections 105.458,
3 160.405, and 160.415, to read as follows:

105.458. 1. No member of any legislative or governing body of any
2 political subdivision of the state shall:

3 (1) Perform any service for such political subdivision or any agency of the
4 political subdivision for any consideration other than the compensation provided
5 for the performance of his or her official duties, except as otherwise provided in
6 this section; or

7 (2) Sell, rent or lease any property to the political subdivision or any
8 agency of the political subdivision for consideration in excess of five hundred
9 dollars per transaction or five thousand dollars per annum, or in the case of a
10 school board **or a governing board of a charter school** five thousand dollars
11 per annum, unless the transaction is made pursuant to an award on a contract
12 let or a sale made after public notice and in the case of property other than real
13 property, competitive bidding, provided that the bid or offer accepted is the lowest
14 received; or

15 (3) Attempt, for any compensation other than the compensation provided
16 for the performance of his or her official duties, to influence the decision of any
17 agency of the political subdivision on any matter; except that, this provision shall
18 not be construed to prohibit such person from participating for compensation in

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 any adversary proceeding or in the preparation or filing of any public document
20 or conference thereon.

21 2. No sole proprietorship, partnership, joint venture, or corporation in
22 which any member of any legislative body of any political subdivision is the sole
23 proprietor, a partner having more than a ten percent partnership interest, or a
24 coparticipant or owner of in excess of ten percent of the outstanding shares of any
25 class of stock, shall:

26 (1) Perform any service for the political subdivision or any agency of the
27 political subdivision for any consideration in excess of five hundred dollars per
28 transaction or five thousand dollars per annum, or in the case of a school board
29 **or a governing board of a charter school** five thousand dollars per annum,
30 unless the transaction is made pursuant to an award on a contract let after public
31 notice and competitive bidding, provided that the bid or offer accepted is the
32 lowest received;

33 (2) Sell, rent or lease any property to the political subdivision or any
34 agency of the political subdivision where the consideration is in excess of five
35 hundred dollars per transaction or five thousand dollars per annum, or in the
36 case of a school board **or a governing board of a charter school** five
37 thousand dollars per annum, unless the transaction is made pursuant to an
38 award on a contract let or a sale made after public notice and in the case of
39 property other than real property, competitive bidding, provided that the bid or
40 offer accepted is the lowest received.

160.405. 1. A person, group or organization seeking to establish a charter
2 school shall submit the proposed charter, as provided in this section, to a sponsor.
3 If the sponsor is not a school board, the applicant shall give a copy of its
4 application to the school board of the district in which the charter school is to be
5 located and to the state board of education, within five business days of the date
6 the application is filed with the proposed sponsor. The school board may file
7 objections with the proposed sponsor, and, if a charter is granted, the school
8 board may file objections with the state board of education. The charter shall
9 include a mission statement for the charter school, a description of the charter
10 school's organizational structure and bylaws of the governing body, which will be
11 responsible for the policy and operational decisions of the charter school, a
12 financial plan for the first three years of operation of the charter school including
13 provisions for annual audits, a description of the charter school's policy for
14 securing personnel services, its personnel policies, personnel qualifications, and

15 professional development plan, a description of the grades or ages of students
16 being served, the school's calendar of operation, which shall include at least the
17 equivalent of a full school term as defined in section 160.011, and an outline of
18 criteria specified in this section designed to measure the effectiveness of the
19 school. The charter shall also state:

20 (1) The educational goals and objectives to be achieved by the charter
21 school;

22 (2) A description of the charter school's educational program and
23 curriculum;

24 (3) The term of the charter, which shall be not less than five years, nor
25 greater than ten years and shall be renewable;

26 (4) A description of the charter school's pupil performance standards,
27 which must meet the requirements of subdivision (6) of subsection 5 of this
28 section. The charter school program must be designed to enable each pupil to
29 achieve such standards;

30 (5) A description of the governance and operation of the charter school,
31 including the nature and extent of parental, professional educator, and
32 community involvement in the governance and operation of the charter school;
33 and

34 (6) A description of the charter school's policies on student discipline and
35 student admission, which shall include a statement, where applicable, of the
36 validity of attendance of students who do not reside in the district but who may
37 be eligible to attend under the terms of judicial settlements.

38 2. Proposed charters shall be subject to the following requirements:

39 (1) A charter may be approved when the sponsor determines that the
40 requirements of this section are met and determines that the applicant is
41 sufficiently qualified to operate a charter school. The sponsor's decision of
42 approval or denial shall be made within ninety days of the filing of the proposed
43 charter;

44 (2) If the charter is denied, the proposed sponsor shall notify the applicant
45 in writing as to the reasons for its denial and forward a copy to the state board
46 of education within five business days following the denial;

47 (3) If a proposed charter is denied by a sponsor, the proposed charter may
48 be submitted to the state board of education, along with the sponsor's written
49 reasons for its denial. If the state board determines that the applicant meets the
50 requirements of this section, that the applicant is sufficiently qualified to operate

51 the charter school, and that granting a charter to the applicant would be likely
52 to provide educational benefit to the children of the district, the state board may
53 grant a charter and act as sponsor of the charter school. The state board shall
54 review the proposed charter and make a determination of whether to deny or
55 grant the proposed charter within sixty days of receipt of the proposed charter,
56 provided that any charter to be considered by the state board of education under
57 this subdivision shall be submitted no later than March first prior to the school
58 year in which the charter school intends to begin operations. The state board of
59 education shall notify the applicant in writing as the reasons for its denial, if
60 applicable; and

61 (4) The sponsor of a charter school shall give priority to charter school
62 applicants that propose a school oriented to high-risk students and to the reentry
63 of dropouts into the school system. If a sponsor grants three or more charters,
64 at least one-third of the charters granted by the sponsor shall be to schools that
65 actively recruit dropouts or high-risk students as their student body and address
66 the needs of dropouts or high-risk students through their proposed mission,
67 curriculum, teaching methods, and services. For purposes of this subsection, a
68 "high-risk" student is one who is at least one year behind in satisfactory
69 completion of course work or obtaining credits for graduation, pregnant or a
70 parent, homeless or has been homeless sometime within the preceding six
71 months, has limited English proficiency, has been suspended from school three
72 or more times, is eligible for free or reduced-price school lunch, or has been
73 referred by the school district for enrollment in an alternative
74 program. "Dropout" shall be defined through the guidelines of the school core
75 data report. The provisions of this subsection do not apply to charters sponsored
76 by the state board of education.

77 3. If a charter is approved by a sponsor, the charter application shall be
78 submitted to the state board of education, along with a statement of finding that
79 the application meets the requirements of sections 160.400 to 160.420 and section
80 167.439, RSMo, and a monitoring plan under which the charter sponsor will
81 evaluate the academic performance of students enrolled in the charter
82 school. The state board of education may, within sixty days, disapprove the
83 granting of the charter. The state board of education may disapprove a charter
84 on grounds that the application fails to meet the requirements of sections 160.400
85 to 160.420 and section 167.349, RSMo, or that a charter sponsor previously failed
86 to meet the statutory responsibilities of a charter sponsor.

87 4. Any disapproval of a charter pursuant to subsection 3 of this section
88 shall be subject to judicial review pursuant to chapter 536, RSMo.

89 5. A charter school shall, as provided in its charter:

90 (1) Be nonsectarian in its programs, admission policies, employment
91 practices, and all other operations;

92 (2) Comply with laws and regulations of the state, county, or city relating
93 to health, safety, and state minimum educational standards, as specified by the
94 state board of education, including the requirements relating to student discipline
95 under sections 160.261, 167.161, 167.164, and 167.171, RSMo, notification of
96 criminal conduct to law enforcement authorities under sections 167.115 to
97 167.117, RSMo, academic assessment under section 160.518, transmittal of school
98 records under section 167.020, RSMo, and the minimum number of school days
99 and hours required under section 160.041;

100 (3) Except as provided in sections 160.400 to 160.420, be exempt from all
101 laws and rules relating to schools, governing boards and school districts;

102 (4) Be financially accountable, use practices consistent with the Missouri
103 financial accounting manual, provide for an annual audit by a certified public
104 accountant, publish audit reports and annual financial reports as provided in
105 chapter 165, RSMo, provided that the annual financial report may be published
106 on the department of elementary and secondary education's Internet web site in
107 addition to other publishing requirements, and provide liability insurance to
108 indemnify the school, its board, staff and teachers against tort claims. A charter
109 school that receives local educational agency status under subsection 6 of this
110 section shall meet the requirements imposed by the Elementary and Secondary
111 Education Act for audits of such agencies. For purposes of an audit by petition
112 under section 29.230, RSMo, a charter school shall be treated as a political
113 subdivision on the same terms and conditions as the school district in which it is
114 located. For the purposes of securing such insurance, a charter school shall be
115 eligible for the Missouri public entity risk management fund pursuant to section
116 537.700, RSMo. A charter school that incurs debt must include a repayment plan
117 in its financial plan;

118 (5) Provide a comprehensive program of instruction for at least one grade
119 or age group from kindergarten through grade twelve, which may include early
120 childhood education if funding for such programs is established by statute, as
121 specified in its charter;

122 (6) (a) Design a method to measure pupil progress toward the pupil

123 academic standards adopted by the state board of education pursuant to section
124 160.514, collect baseline data during at least the first three years for determining
125 how the charter school is performing and to the extent applicable, participate in
126 the statewide system of assessments, comprised of the essential skills tests and
127 the nationally standardized norm-referenced achievement tests, as designated by
128 the state board pursuant to section 160.518, complete and distribute an annual
129 report card as prescribed in section 160.522, which shall also include a statement
130 that background checks have been completed on the charter school's board
131 members, report to its sponsor, the local school district, and the state board of
132 education as to its teaching methods and any educational innovations and the
133 results thereof, and provide data required for the study of charter schools
134 pursuant to subsection 4 of section 160.410. No charter school will be considered
135 in the Missouri school improvement program review of the district in which it is
136 located for the resource or process standards of the program.

137 (b) For proposed high risk or alternative charter schools, sponsors shall
138 approve performance measures based on mission, curriculum, teaching methods,
139 and services. Sponsors shall also approve comprehensive academic and
140 behavioral measures to determine whether students are meeting performance
141 standards on a different time frame as specified in that school's charter. Student
142 performance shall be assessed comprehensively to determine whether a high risk
143 or alternative charter school has documented adequate student progress. Student
144 performance shall be based on sponsor-approved comprehensive measures as well
145 as standardized public school measures. Annual presentation of charter school
146 report card data to the department of elementary and secondary education, the
147 state board, and the public shall include comprehensive measures of student
148 progress.

149 (c) Nothing in this paragraph shall be construed as permitting a charter
150 school to be held to lower performance standards than other public schools within
151 a district; however, the charter of a charter school may permit students to meet
152 performance standards on a different time frame as specified in its charter;

153 (7) Assure that the needs of special education children are met in
154 compliance with all applicable federal and state laws and regulations;

155 (8) Provide along with any request for review by the state board of
156 education the following:

157 (a) Documentation that the applicant has provided a copy of the
158 application to the school board of the district in which the charter school is to be

159 located, except in those circumstances where the school district is the sponsor of
160 the charter school; and

161 (b) A statement outlining the reasons for approval or disapproval by the
162 sponsor, specifically addressing the requirements of sections 160.400 to 160.420
163 and 167.349, RSMo.

164 6. The charter of a charter school may be amended at the request of the
165 governing body of the charter school and on the approval of the sponsor. The
166 sponsor and the governing board and staff of the charter school shall jointly
167 review the school's performance, management and operations at least once every
168 two years or at any point where the operation or management of the charter
169 school is changed or transferred to another entity, either public or private. The
170 governing board of a charter school may amend the charter, if the sponsor
171 approves such amendment, or the sponsor and the governing board may reach an
172 agreement in writing to reflect the charter school's decision to become a local
173 educational agency for the sole purpose of seeking direct access to federal grants.
174 In such case the sponsor shall give the department of elementary and secondary
175 education written notice no later than March first of any year, with the
176 agreement to become effective July first. The department may waive the March
177 first notice date in its discretion. The department shall identify and furnish a list
178 of its regulations that pertain to local educational agencies to such schools within
179 thirty days of receiving such notice.

180 7. (1) A sponsor may revoke a charter at any time if the charter school
181 commits a serious breach of one or more provisions of its charter or on any of the
182 following grounds: failure to meet academic performance standards as set forth
183 in its charter, failure to meet generally accepted standards of fiscal management,
184 failure to provide information necessary to confirm compliance with all provisions
185 of the charter and sections 160.400 to 160.420 and 167.349, RSMo, within
186 forty-five days following receipt of written notice requesting such information, or
187 violation of law.

188 (2) The sponsor may place the charter school on probationary status to
189 allow the implementation of a remedial plan, which may require a change of
190 methodology, a change in leadership, or both, after which, if such plan is
191 unsuccessful, the charter may be revoked.

192 (3) At least sixty days before acting to revoke a charter, the sponsor shall
193 notify the governing board of the charter school of the proposed action in
194 writing. The notice shall state the grounds for the proposed action. The school's

195 governing board may request in writing a hearing before the sponsor within two
196 weeks of receiving the notice.

197 (4) The sponsor of a charter school shall establish procedures to conduct
198 administrative hearings upon determination by the sponsor that grounds exist to
199 revoke a charter. Final decisions of a sponsor from hearings conducted pursuant
200 to this subsection are subject to judicial review pursuant to chapter 536, RSMo.

201 (5) A termination shall be effective only at the conclusion of the school
202 year, unless the sponsor determines that continued operation of the school
203 presents a clear and immediate threat to the health and safety of the children.

204 (6) A charter sponsor shall make available the school accountability report
205 card information as provided under section 160.522 and the results of the
206 academic monitoring required under subsection 3 of this section.

207 8. A sponsor shall take all reasonable steps necessary to confirm that each
208 charter school sponsored by such sponsor is in material compliance and remains
209 in material compliance with all material provisions of the charter and sections
210 160.400 to 160.420 and 167.349, RSMo. Every charter school shall provide all
211 information necessary to confirm ongoing compliance with all provisions of its
212 charter and sections 160.400 to 160.420 and 167.349, RSMo, in a timely manner
213 to its sponsor.

214 9. A school district may enter into a lease with a charter school for
215 physical facilities.

216 10. A governing board or a school district employee who has control over
217 personnel actions shall not take unlawful reprisal against another employee at
218 the school district because the employee is directly or indirectly involved in an
219 application to establish a charter school. A governing board or a school district
220 employee shall not take unlawful reprisal against an educational program of the
221 school or the school district because an application to establish a charter school
222 proposes the conversion of all or a portion of the educational program to a charter
223 school. As used in this subsection, "unlawful reprisal" means an action that is
224 taken by a governing board or a school district employee as a direct result of a
225 lawful application to establish a charter school and that is adverse to another
226 employee or an educational program.

227 11. Charter school board members shall be subject to the same liability
228 for acts while in office as if they were regularly and duly elected members of
229 school boards in any other public school district in this state. The governing
230 board of a charter school may participate, to the same extent as a school board,

231 in the Missouri public entity risk management fund in the manner provided
232 under sections 537.700 to 537.756, RSMo.

233 12. Any entity, either public or private, operating, administering, or
234 otherwise managing a charter school shall be considered a quasi-public
235 governmental body and subject to the provisions of sections 610.010 to 610.035,
236 RSMo.

237 13. The chief financial officer of a charter school shall maintain a surety
238 bond in an amount determined by the sponsor to be adequate based on the cash
239 flow of the school.

240 **14. The department of elementary and secondary education shall**
241 **complete a school core data audit on all charter schools within six**
242 **months of a school's charter having been granted and thereafter shall**
243 **audit such school annually.**

160.415. 1. For the purposes of calculation and distribution of state
2 school aid under section 163.031, RSMo, pupils enrolled in a charter school shall
3 be included in the pupil enrollment of the school district within which each pupil
4 resides. Each charter school shall report the names, addresses, and eligibility for
5 free and reduced lunch, special education, or limited English proficiency status,
6 as well as eligibility for categorical aid, of pupils resident in a school district who
7 are enrolled in the charter school to the school district in which those pupils
8 reside. The charter school shall report the average daily attendance data, free
9 and reduced lunch count, special education pupil count, and limited English
10 proficiency pupil count to the state department of elementary and secondary
11 education. Each charter school shall promptly notify the state department of
12 elementary and secondary education and the pupil's school district when a
13 student discontinues enrollment at a charter school.

14 2. Except as provided in subsections 3 and 4 of this section, the aid
15 payments for charter schools shall be as described in this subsection.

16 (1) A school district having one or more resident pupils attending a
17 charter school shall pay to the charter school an annual amount equal to the
18 product of the charter school's weighted average daily attendance and the state
19 adequacy target, multiplied by the dollar value modifier for the district, plus local
20 tax revenues per weighted average daily attendance from the incidental and
21 teachers' funds in excess of the performance levy as defined in section 163.011,
22 RSMo, plus all other state aid attributable to such pupils.

23 (2) The district of residence of a pupil attending a charter school shall also

24 pay to the charter school any other federal or state aid that the district receives
25 on account of such child.

26 (3) If the department overpays or underpays the amount due to the
27 charter school, such overpayment or underpayment shall be repaid by the public
28 charter school or credited to the public charter school in twelve equal payments
29 in the next fiscal year.

30 (4) The amounts provided pursuant to this subsection shall be prorated
31 for partial year enrollment for a pupil.

32 (5) A school district shall pay the amounts due pursuant to this subsection
33 as the disbursal agent and no later than twenty days following the receipt of any
34 such funds. The department of elementary and secondary education shall pay the
35 amounts due when it acts as the disbursal agent within five days of the required
36 due date.

37 3. A workplace charter school shall receive payment for each eligible pupil
38 as provided under subsection 2 of this section, except that if the student is not a
39 resident of the district and is participating in a voluntary interdistrict transfer
40 program, the payment for such pupils shall be the same as provided under section
41 162.1060, RSMo.

42 4. A charter school that has declared itself as a local educational agency
43 shall receive from the department of elementary and secondary education an
44 annual amount equal to the product of the charter school's weighted average daily
45 attendance and the state adequacy target, multiplied by the dollar value modifier
46 for the district, plus local tax revenues per weighted average daily attendance
47 from the incidental and teachers funds in excess of the performance levy as
48 defined in section 163.011, RSMo, plus all other state aid attributable to such
49 pupils. If a charter school declares itself as a local education agency, the
50 department of elementary and secondary education shall, upon notice of the
51 declaration, reduce the payment made to the school district by the amount
52 specified in this subsection and pay directly to the charter school the annual
53 amount reduced from the school district's payment.

54 5. If a school district fails to make timely payments of any amount for
55 which it is the disbursal agent, the state department of elementary and secondary
56 education shall authorize payment to the charter school of the amount due
57 pursuant to subsection 2 of this section and shall deduct the same amount from
58 the next state school aid apportionment to the owing school district. If a charter
59 school is paid more or less than the amounts due pursuant to this section, the

60 amount of overpayment or underpayment shall be adjusted equally in the next
61 twelve payments by the school district or the department of elementary and
62 secondary education, as appropriate. Any dispute between the school district and
63 a charter school as to the amount owing to the charter school shall be resolved by
64 the department of elementary and secondary education, and the department's
65 decision shall be the final administrative action for the purposes of review
66 pursuant to chapter 536, RSMo. During the period of dispute, the department of
67 elementary and secondary education shall make every administrative and
68 statutory effort to allow the continued education of children in their current
69 public charter school setting.

70 6. The charter school and a local school board may agree by contract for
71 services to be provided by the school district to the charter school. The charter
72 school may contract with any other entity for services. Such services may include
73 but are not limited to food service, custodial service, maintenance, management
74 assistance, curriculum assistance, media services and libraries and shall be
75 subject to negotiation between the charter school and the local school board or
76 other entity. Documented actual costs of such services shall be paid for by the
77 charter school.

78 7. A charter school may enter into contracts with community partnerships
79 and state agencies acting in collaboration with such partnerships that provide
80 services to children and their families linked to the school.

81 8. A charter school shall be eligible for transportation state aid pursuant
82 to section 163.161, RSMo, and shall be free to contract with the local district, or
83 any other entity, for the provision of transportation to the students of the charter
84 school.

85 9. (1) The proportionate share of state and federal resources generated
86 by students with disabilities or staff serving them shall be paid in full to charter
87 schools enrolling those students by their school district where such enrollment is
88 through a contract for services described in this section. The proportionate share
89 of money generated under other federal or state categorical aid programs shall
90 be directed to charter schools serving such students eligible for that aid.

91 (2) A charter school district shall provide the special services provided
92 pursuant to section 162.705, RSMo, and may provide the special services
93 pursuant to a contract with a school district or any provider of such services.

94 10. A charter school may not charge tuition, nor may it impose fees that
95 a school district is prohibited from imposing.

96 11. A charter school is authorized to incur debt in anticipation of receipt
97 of funds. A charter school may also borrow to finance facilities and other capital
98 items. A school district may incur bonded indebtedness or take other measures
99 to provide for physical facilities and other capital items for charter schools that
100 it sponsors or contracts with. Upon the dissolution of a charter school, any
101 liabilities of the corporation will be satisfied through the procedures of chapter
102 355, RSMo.

103 12. **Any charter school that ceases to function as an educational**
104 **institution, whether by expiration, revocation, or termination of the**
105 **school's charter, or for any other reason shall:**

106 **(1) Present an audit of all available funds within thirty days of**
107 **closing or provide all financial records for audit by the department of**
108 **elementary and secondary education. The charter school shall remit**
109 **any fund balances accrued from state or local tax revenues to the**
110 **department within forty-five days of closing. The department shall**
111 **refund such accumulated unutilized funds to the school district or**
112 **districts in which the charter school is physically located; and**

113 **(2) Provide notice to the school district or districts in which the**
114 **charter school is physically located that the charter school is**
115 **discontinuing educational instruction. Such notice shall be provided**
116 **at least sixty days prior to the date that the charter school ceases to**
117 **operate.**

118 13. Charter schools shall not have the power to acquire property by
119 eminent domain.

120 [13.] 14. The governing body of a charter school is authorized to accept
121 grants, gifts or donations of any kind and to expend or use such grants, gifts or
122 donations. A grant, gift or donation may not be accepted by the governing body
123 if it is subject to any condition contrary to law applicable to the charter school or
124 other public schools, or contrary to the terms of the charter.

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